

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Luis Alfredo Cáceres and Luis Angel Cáceres, Individually, as executor of the Estate of Alfredo Cáceres, and as trustee of the Luis Angel Cáceres Charitable Remainder Unitrust,

Plaintiffs,

vs.

Sidley Austin LLP,

Defendant.

CIVIL ACTION NO.

NOTICE OF REMOVAL

Defendant Sidley Austin LLP (“Sidley”) hereby removes the above-captioned matter, pending as Case Number 23EV000288 in the State Court of the State of Georgia for Fulton County (the “State Court Action”), to the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446. In support of this Notice of Removal, Sidley states the following:

TIMELINESS OF NOTICE

1. On January 13, 2023, Plaintiffs Luis Alfredo Cáceres and Luis Angel Cáceres (collectively, the “Cácereses”) filed the State Court Action in the State Court of Fulton County, Georgia. The Complaint seeks damages for alleged breach of contract, negligent misrepresentation, professional negligence, and common-law indemnity arising out of tax shelter advice that Sidley provided to the Cácereses more than twenty-five years ago.

2. Sidley agreed to accept service of the Complaint and Summons on January 30, 2023. *See Exhibit A.* Accordingly, under 28 U.S.C. § 1446(b), this Notice of Removal is timely because it has been filed within thirty days of service of the Summons and Complaint. *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999). Neither party to the State Court Action has filed any responsive pleadings following the Complaint.

REMOVAL PROCEDURES

3. Removal to this Court is proper under 28 U.S.C. § 1441(a) because the Fulton County State Court is located within the Atlanta Division of the Northern District of Georgia. *See 28 U.S.C. § 90(a)(2).*

4. Pursuant to 28 U.S.C. § 1446(a), attached as Exhibit A to this Notice of Removal are true and correct copies of all process, pleadings, and orders that

have been served upon Sidley in connection with this action, as well as a copy of Sidley's Acknowledgement of Service, which was filed with the Fulton County State Court.

5. After filing this Notice of Removal, Sidley will provide written notice to the Cácereses and file a copy of this Notice with the Clerk of the State Court of Fulton County, consistent with 28 U.S.C. § 1446(d)'s requirements.

6. Sidley files this Notice of Removal for the sole purpose of establishing jurisdiction. By filing this Notice of Removal, Sidley does not waive, either expressly or impliedly, any defenses, exceptions, or obligations that may exist in its favor in either state or federal court.

DIVERSITY JURISDICTION

7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), because this is a civil action between citizens of different states and the amount in controversy exceeds \$75,000.

8. The parties to this action are completely diverse. Based on the allegations in the Complaint, the Cácereses, who are the only plaintiffs in this case, are residents and citizens of Puerto Rico. *See* Complaint ¶¶ 5–6. Sidley, a limited liability partnership, is the only defendant in this case. “The Supreme Court [has] held that for purposes of diversity of citizenship, a limited partnership is a citizen

of each state in which any of its partners, limited or general, are citizens.” *Rolling Greens MHP, L.P. v. Comcast SCH Holdings, LLC*, 374 F.3d 1020, 1021 (11th Cir. 2003) (citing *Carden v. Arkoma Assocs.*, 494 U.S. 185, 195–96 (1990)). As set forth in the Declaration of Linton J. Childs, attached as Exhibit B to this Notice, Sidley’s partners are citizens of Illinois, Indiana, and Utah. *See* Declaration of Linton J. Childs ¶ 9.

9. To the extent the Complaint purports to name Sidley’s affiliated New York partnership, which does business under the Sidley Austin LLP name, the partners of that partnership are citizens of Connecticut, Illinois, Maryland, Maine, Michigan, New Jersey, Nevada, New York, and Pennsylvania. *See* Declaration of Linton J. Childs ¶ 28.

10. Sidley and its affiliated New York partnership do not have any partners who are citizens of either Georgia or Puerto Rico. *See* Declaration of Linton J. Childs ¶ 29.

11. Because Sidley is not a citizen of the same state as the Cácereses, the parties are completely diverse, and 28 U.S.C. § 1332(a)(1)’s diversity requirement is satisfied.

12. The same provision’s amount-in-controversy requirement, 28 U.S.C. § 1332(a), is likewise met because the Complaint seeks damages “to hold Sidley

responsible for \$56 million in taxes, penalties, and interest” the Cácereses allege that the IRS is “now seeking to impose on Plaintiffs resulting from the stock sale transaction in which Sidley advised Plaintiffs.” *See* Complaint ¶¶ 4, 29, 38, 49, 60, 68, Prayer for Relief.

CONCLUSION

13. Wherefore, Sidley respectfully removes this action from the State Court of Fulton County, Georgia to the United States District Court for the Northern District of Georgia.

[signatures on following page]

DATED: February 27, 2023

CAPLAN COBB LLC

By: /s/ Michael A. Caplan

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing was prepared in Times New Roman font, 14-point type, and complies with Local Rule 5.1(C).

/s/ Michael A. Caplan
Michael A. Caplan

CERTIFICATE OF SERVICE

On February 27, 2023, I electronically filed the foregoing NOTICE OF REMOVAL through the Court's CM/ECF system. I hereby certify that on that same date, I served a true and correct copy of the foregoing document on Plaintiffs' counsel of record via certified mail, return receipt requested, to the below listed addresses:

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